

10/7(3)

020

FILE NOTE

September 5, 2013

To: Town of Acton Planning Department
Attn: Scott Mutch
From: Vincent Cuttone
Re: CVS Project at 400 Mass Ave., Acton, MA

To Whom It May Concern:

I wanted to follow up on the meeting with Scott Mutch this morning about the proposed CVS development at 400 Mass Ave. This will confirming my willingness as principal/manager of NOTCA LLC, Parker Lane Investment Trust and 394 Massachusetts Avenue LLC to grant TRB Development Group, Inc. the necessary rights to complete the permitting process for the construction of a CVS at 400 Mass Ave, Acton, MA. Without limitation, it will be a condition of the rights granted that I own at least 50% of the entity that will develop the CVS Project if Acton issues all necessary permits and approvals in form and substance acceptable to TRB and me. Thank you.

A handwritten signature in black ink, appearing to be 'Vincent Cuttone', written over a horizontal line.

Vincent Cuttone

I Vincent Cuttone, hereby certify that I am the owner of the following parcels of real estate as per the percentage breakdown listed below.

Tax Map Address:

Ownership Percentage:

- | | |
|--|------|
| 1. NOTCA , LLC
408 Mass Avenue
Map F3, Lot 118-2
Containing +/- 2.77 Acres of Land | 100% |
| 2. Parker Lane Investment Trust
408 Mass Avenue Behind
Map F3, Lot 127
Containing +/- 1.05 Acres of Land | 100% |
| 3. Mustard Seed Properties, LLC
400 Mass Avenue
(Under Purchase & Sales Agreement,
subject to permit approval of CVS)
Map F3, Lot 128
Containing +/- 1.32 Acres of Land | 50% |
| 4. 394 Massachusetts Avenue, LLC
394 Mass Avenue
Map F3, Lot 134
Containing +/- 1.3 Acres of Land | 100% |

I Timothy R. Boisvert, hereby certify that I am or will be the owner of the following parcels of real estate as per the percentage breakdown listed below.

Mustard Seed Properties, LLC 400 Mass Avenue (Under Purchase & Sales Agreement, subject to permit approval of CVS)	50%
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RECEIVED


SEP - 5 2013

Town of Acton
Planning Department

NOTCA, LLC


By: Vincent Cuttone, Manager

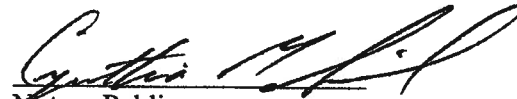
TRB Development Group, Inc.


By: Timothy R. Boisvert, President

Middlesex County

September 5, 2013

Then personally appeared the above-named Vincent Cuttone, Manager of NOTCA, LLC, personally known to me the undersigned, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of NOTCA, LLC for its stated purpose, before me,


Notary Public
My commission expires:

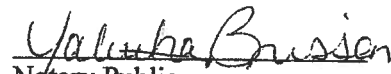
Cynthia M. Sautier
Notary Public
My Commission Expires November 14, 2014
Commonwealth of Massachusetts

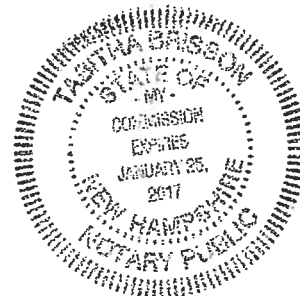


Merrimack County

September 4, 2013

Then personally appeared the above-named Timothy R. Boisvert personally known to the undersigned and acknowledged the foregoing instrument to be his free act and deed and the free act and deed.


Notary Public
My commission expires: 01.25.17





9/9/13 (3) 020

TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 929-6611
Fax (978) 929-6350

Janet K. Adachi
Chairperson, Board of Selectmen

August 5, 2013

Acton Beacon Legal Ad Division

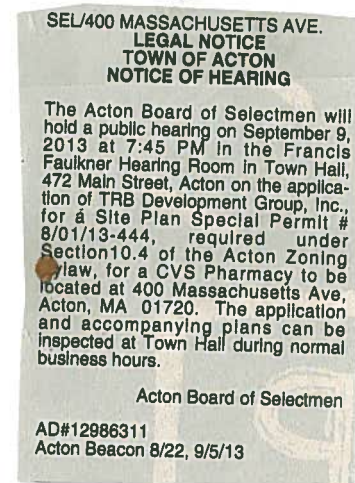
Below please find a copy of a legal advertisement to appear in the Acton Beacon on August 22 and September 5, 2013

Please send the bill to:

TRB Development Group, Inc.
36 Londonderry Turnpike
Hooksett, NH 03106
Phone # (603)-669-8500

Please send proof copy and tear sheet to:

Town Manager's Office
472 Main Street
Acton, MA 01720



Very truly yours,
Christine Joyce
Town Manager's Office

Selectman Adachi

**LEGAL NOTICE
TOWN OF ACTON
NOTICE OF HEARING**

The Acton Board of Selectmen will hold a public hearing on September 9, 2013 at 7:45 PM in the Francis Faulkner Hearing Room in Town Hall, 472 Main Street, Acton on the application of TRB Development Group, Inc., for a Site Plan Special Permit # 8/01/13-444, required under Section 10.4 of the Acton Zoning Bylaw, for a CVS Pharmacy to be located at 400 Massachusetts Ave, Acton, MA 01720. The application and accompanying plans can be inspected at Town Hall during normal business hours.

Acton Board of Selectmen

Scott Mutch

From: Roland Bartl
Sent: Friday, August 30, 2013 4:54 PM
To: 'Richard Mattocks'
Cc: Scott Mutch; Planning Department
Subject: CVS site plan application

Hi, Rich:

Would you please touch base with Scott Tuesday next week (I am away). There are still some issues related to zoning compliance relative to FAR and setbacks that will only be resolved through merging properties or plan adjustments. We assume you are going for mergers but the application has only one page of a p & s agreement (we don't know the parties), and there is other abutting land in different ownership entities.

Start with bringing your complete and extended (if needed) p&S.

Roland Bartl, AICP
Planning Director
Town of Acton
472 Main Street
Acton, MA 01720
978-929-6631

Scott Mutch

From: Doug Halley
Sent: Tuesday, September 03, 2013 1:59 PM
To: Scott Mutch
Subject: CVS

Scott,

There is some confusion regarding the sewer easement on the CVS property. Our recorded easement doesn't match what we believe should have been recorded. The proposed structure is within the recorded easement but not within what we thought should have been recorded. Corey is looking into it but we may have to work with CVS to get the easement corrected.

Doug

Scott Mutch

From: Doug Halley
Sent: Tuesday, September 03, 2013 4:39 PM
To: Scott Mutch
Subject: CVS

Scott,

It is my understanding that the CVS proposal may exceed the floor area ratio calculated for the site. Floor area ratio was the way in which sewer betterments were allocated for non-residential property. Any exceedence of the calculated floor area ratio would require a privilege fee over and above the allocated sewer assessment. Privilege fee payments are based on the anticipated Title V wastewater flow, for non-residential properties this is calculated as 75 gallons per day per 1,000 square feet of floor area. 1 Sewer privilege fee unit is equal to 300 gallons per day, which has a value of \$12,311.52. Accordingly every 1,000 sq. ft over the calculated FAR for the betterment assessment would require a privilege fee of \$3,077.88.

Doug



Water Supply District of Acton

693 MASSACHUSETTS AVENUE
P.O. BOX 953
ACTON, MASSACHUSETTS 01720

TELEPHONE (978) 263-9107

FAX (978) 264-0148

DATE: 9/3/2013

TO: Town of Acton Planning Department

FROM: Chris Allen, District Manager

RE: Comments on CVS/400 Massachusetts Avenue

1. The proposed development will require >5,000 Gallons-per-day (GPD), and/or a connection to the existing water main >2", the owner, or owner's representative, must submit a "Water Impact Report" per Acton Water District (AWD) "*Rules & Regulations*".
2. The new 8" water main connection running from Massachusetts Ave to the new building should be moved to the East side of the building to shorten the extension for maintenance of domestic water quality. Either that, or a domestic water service, separate from the fire sprinkler line should be run on the East side of the building from Massachusetts Ave.
3. The existing domestic water service must be abandoned in Massachusetts Ave/Rt 111 by turning off the Corporation Stop valve at the existing 8" water main.
4. To minimize water irrigation needs, instead of sod over 4" of topsoil, AWD recommends 6" of topsoil with a minimum organic content of 10%.
5. All water mains, services, appurtenances and installation of such must comply with AWD specifications. (Hard copy may be picked up at AWD main office)
6. A proposed "As-Built" plan of the water infrastructure must be submitted, reviewed and approved by AWD prior to any installation of said infrastructure.
7. A final "As-Built" plan denoting exact locations of all water infrastructure will be submitted by the contractor in hard copy and .pdf format prior to filling of any water mains for pressure test or disinfection per AWD specifications.

Respectfully submitted

Chris Allen
District Manager

TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9628
Fax (978) 264-9630

Engineering Department

INTERDEPARTMENTAL COMMUNICATION

To: Planning Department

Date: August 23, 2013

From: Engineering Department

Subject: Site Plan Special Permit #08/01/13-444 – CVS - 400 Massachusetts Avenue

We have reviewed the site plan for 400 Mass Ave dated January 25, 2013 with a revision date of July 8th, 2013 and have the following comments.

1. The underground detention basin is submerged below the estimated seasonal high water level due to the high groundwater level on the site. Although the detention basin will not be able to provide groundwater recharge, the applicant has shown they've met the intent to satisfy Standard #3 of the Massachusetts Stormwater Policy which grants relief if there are site constraints such as high groundwater or ledge. The applicant has also shown in their water balance calculations that the pre-development infiltration rates will not be reduced post-construction.
2. The pavement sections do not match Acton standards however they do exceed them. We don't see any issue in approving the proposed pavement section.
3. There is an errant note on the detail sheet for the outlet control structure that reads "Top of Weir, Inv = 159.00". This appears to be a typo.
4. The profile view of the underground detention system has 6-inches of separation between the bottom of the system and the bottom of the outlet control structure however the drainage calculations and details call for the bottom of the detention system and the invert of the outlet pipe (12" HDPE) to match at 181.75'. The outlet pipe is located at the bottom of the outlet structure. Either there isn't a 6-inch separation or the outlet pipe is located 6-inches above the bottom of the outlet structure.
5. There is an existing sewer easement on the site that the proposed CVS is being built on. It appears as though the easement could be relocated based on the location of the existing sewer system. This issue will need to be resolved before any permits are issued for the proposed building.
6. The applicant has a proposed temporary easement shown on the abutting land. The easement is needed to construct the retaining wall along the property line. We would request a copy of the signed agreement with the abutter before any approvals are given.

7. We would request to obtain a copy of the MassDOT permit for the work shown within the road layout for Massachusetts Avenue for our records.
8. Based on our turning templates, an emergency SU-30 vehicle (fire truck) can maneuver within the site. It appears that the access to Mass Ave at the intersection with the driveway for the Roche Brothers shopping area has been proposed to allow the fire truck to enter/exit the site without the need to obstruct oncoming traffic on Route 111 however on the rear driveway located towards Route 2, a fire truck would need to obstruct traffic if they exit towards Route 2. We'll defer to the Fire Department on whether a fire truck would take this route.
9. There should be an erosion & sedimentation control note that states the contractor is responsible to clean-up any sand, dirt or debris which erodes from the site onto Massachusetts Avenue or private property, and to remove silt or debris that enters any existing drainage system immediately upon discovery.
10. The engineer needs to show two temporary benchmarks and the starting benchmark on the plans. The temporary benchmarks should be located on fixed objects that will not be disturbed during construction.
11. An as-built plan certified by a Massachusetts Licensed Surveyor showing the buildings, pavement, drainage, utilities, etc. should be required at the conclusion of construction. A Professional Engineer should also stamp the as-built plan to certify that the site has been completed in accordance with the approved site plan and that all features required on the site by the approved plans, decisions, etc... have been field inspected by the PE and conform with the approved design. Any non-conforming features shall be clearly noted.
12. The traffic study makes no mention of the accident history at the intersection of Mass Ave, the proposed driveway and the access for the Roche Brothers shopping area. The study does mention that the intersection warrants a signal if the CVS is built which we concur with.
13. The engineer should add a note restricting the hauling of earth to and from the site between the hours of 9AM and 4PM on weekdays on the plans.



DRB Memorandum

Project Location: Mass Ave (Across from Roche Bros Plaza), Acton, MA

Architectural Plans: Exterior Elevation A-4.1 revised date: 07/19/13; Outline plan SK-C, date: 07/19/13; Site Development Plan Sheets, revised date: 07/08/13

Architect: BKA Architects, Inc

Civil Engineering Firm: Bohler Engineering

Developer: TRB Development Group

Property Owner: Vinnie Cuttone

First Review of Revised Project

Date of DRB Review: 08-21-2013

The DRB met on the above date to review submitted updates of project drawings for the proposed CVS pharmacy to be located in a new building located at 400 Mass Ave. The site is currently developed as the Goodyear tire store and is within the Kelley's Corner Zone. This parcel is part of a larger parcel owned by the proponent. The updated Outline Plan shows the building primarily set at an angle to Mass Ave, though with a portion of the northern edge of the plan adjusted to parallel the street, with parking on the west side and the southern (rear) sides of the site and with driveways along the eastern and northern (front) sides of the building. The customer entry is positioned on the south west corner (rear) of the building away from the Mass Ave face of the building.

The DRB greatly appreciates the high quality of drawings for the building and the 3-D rendering in sketch up which greatly enhances our understanding of the massing and exterior intent for the building and how it will fit within the surrounding context. The DRB makes the following comments:

Building Exterior:

- The DRB commends the development team for their positive response to many of the recommendations made during the December 06, 2012 review of the project. Notably the building facades and visual massing depicted in the present rendering and building elevations are much improved at each of the corners closer to Mass Ave and on the South side of the building where it is apparent the CVS design team was comfortable with much of the DRB commentary during our previous review meeting. In general the DRB believes the exterior elevations of the proposal are well thought through and appropriate to the scale and orientation of the development.
- The DRB continues to have one modest comment concerning the small window within the faux brick gable facing towards Mass Ave. We believe this small window is unnecessary and that the brick gable would be better served by a simple clean section of brick without the detail.

Site Layout:

- The DRB continues to question the need for the North side drive located within the "front yard" of the project given the revised site development plans show that the two exit points to Mass Ave on the East and West corners of the site each provide the opportunity to turn left or right onto Mass Ave and the drive makes the building look like it is on an island surrounded by asphalt. During our previous review meeting, the DRB made a recommendation to modify the drive at the front of the building to diminish its front yard visibility by grading it flush with the curb and utilizing a paving stone. The current site plans reviewed

indicate the drive material is now proposed to be a stamped concrete but the curbing was maintained. Given the drive remains, and is not intended to be built flush with the front yard, the DRB believes it is best to let the pavement remain consistent with the balance of the paved parking areas.

- The updated site plan shows the sidewalk aligned with the walk along the west face of the new building, however the sidewalk is shown to be stamped concrete for only the section from Mass Ave to the NW corner of the new building, than it shifts to conventional concrete. The board suggests that all of the walkways should be of a consistent material, either stamped concrete or conventional
- The pylon sign was not presented within the revised documents reviewed. The DRB would like an opportunity to review any updated image of the sign proposed.
- The HC parking spaces remain clustered around the customer entry. The upright HC parking signs are set in concrete bollards to protect the building. Given the main entry to the store will require all customers to pass between these signs and bollard structures, the DRB suggests that the cluster of 4 HC parking spaces be relocated to either be all on the South or West side of the entrance, in order for the entrance to be less encumbered. To improve the look of the signs, the board recommends either removing the yellow bollards and replacing them with tire stops and upright signs supported upon standard galvanized or black painted poles.
- The board is disappointed to see that the double parking field at the back of the building remains. The DRB continues to question the need for 73 parking spaces, given the zoning requirement is listed as 35 spaces for the CVS development. At the previous review meeting in December, the proponent offered that the additional parking capacity would be shared with future development of adjacent property. The board continues to suggest that only the parking necessary for the present development be constructed at this time. Otherwise, the board continues to recommend reducing the travel lane by 1 or 2 feet within the rear parking field and increasing the width of planting island by this same amount. A wider island would allow for the planting of trees which the DRB highly recommends between the sections of parking on the South, (rear), side of the site.
- The DRB would like to reiterate that there has been a trend within the past few years of proposed commercial developments to 'overpark' their sites, (where many of the proposed sites come close to having double the amount of required parking), with high percentages of impervious surfaces on the site. The DRB is concerned about the cumulative effect of all the additional impervious surfaces to Acton's watershed and storm water management in commercial districts.
- The DRB reviewed the planting plan and believes the layout and material selections are fine.
- The DRB would like to recommend that the CVS parking lot pole lighting be specified to match the parking lot pole utilized at the adjacent TD Bank site.
- The DRB notes that the site development drawings depict tree removal work beyond the CVS proposed property lines. The site demolition drawing sheet indicates the land area to the SouthWest behind the TD site to be cleared, and another sheet shows it to be graded and planted as a part of this project scope. It would be useful to know the eventual plans for this area while reviewing the CVS project since its future development will have an impact on the CVS site.
- The DRB notes that the site development drawings depict drive thru markings on the pavement and depict the potential future position of a drive thru pharmacy window on the East side of the building.

The DRB thanks the proponent's team for sharing the updated project development drawings. We again recommend that it would be useful to have a meeting to review the master plan for the land owned by Vinnie Cuttone to better understand the development of the surrounding area and the context of CVS within this site.

Respectfully Submitted,

Design Review Board

Members in attendance: David Honn, RA; Holly Ben-Joseph, ASLA; Peter Darlow, AIA

Christine Joyce

From: Cheryl Frazier
Sent: Monday, August 05, 2013 2:08 PM
To: Christine Joyce
Cc: Scott Mutch; Roland Bartl
Subject: RE: Proposed CVS Site Plan Special Permit

Christine,

I am in receipt of a Site Plan Special Permit application for CVS Pharmacy located at 400 Massachusetts Ave. The tracking number will be (#08/01/13-444) I need to know the Selectman Liaison assigned to the Site Plan along with a date and time for the hearing. (Roland mentioned they are in on the 9th of September)

They are proposing to demolish an existing building and build a new CVS Pharmacy. The Section of the bylaw is Section 10.4.

The applicants information is as follows:

TRB Development Group, Inc.
36 Londonderry Turnpike
Hooksett, NH 03106
Phone # (603)-669-8500

Regards,
Cheryl

Cheryl Frazier
472 Main Street
Acton, MA 01720
978-929-6633 phone
978-264-9632 FAX
cfrazier@acton-ma.gov

From: Scott Mutch
Sent: Monday, August 05, 2013 12:46 PM
To: Cheryl Frazier
Subject: Proposed CVS Site Plan Special Permit

Cheryl,

The submission of the proposed CVS Site Plan Special Permit can be number #08/01/13 – 444 and is being filed under Section 10.4 of the Zoning Bylaw.

If you have any questions, comments or concerns regarding this matter, please feel free to contact our office at (978) 929-6631, Monday through Friday (except for holidays) between the hours of 8:00 am and 5:00 pm. Sincerely,

Scott A. Mutch
Zoning Enforcement Officer & Assistant Town Planner
Town of Acton
Planning Department
472 Main Street
Acton, MA 01720
Tel: (978) 929-6631
Fax: (978) 929-6340
Email: planning@acton-ma.gov
Website: www.acton-ma.gov

Christine Joyce

From: Cheryl Frazier
Sent: Monday, August 12, 2013 2:57 PM
To: Christine Joyce
Subject: RE: <http://doc.acton-ma.gov/dsweb/View/Collection-5548>

Here you go Christine.

From: Cheryl Frazier
Sent: Thursday, August 08, 2013 3:49 PM
To: Building Department; Doug Halley; Engineering Department; Patrick Futterer; Frank Widmayer; Assessor Department; Municipal Properties Department; Chris Allen; Tom Tidman; Economic Development Committee; Sidewalk Committee; Design Review Board
Cc: Scott Mutch
Subject: <http://doc.acton-ma.gov/dsweb/View/Collection-5548>

Good afternoon,

We are in receipt of an application for approval of a **Site Plan Special Permit** for CVS Pharmacy, 400 Mass. Ave. (#SPSP #08/01/13-444).

The application and plans can be viewed on the docushare link in the subject line above.

Please forward your comments to the Planning Department no later than Friday, August 30, 2013.

Regards,

Cheryl

*Cheryl Frazier
Acton Building Department
472 Main Street
Acton, MA 01720
978-929-6633 phone
978-264-9632 FAX
cfrazier@acton-ma.gov*